

189

Office of Electricity Ombudsman
(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)
B-53, Paschimi Marg, Vasant Vihar, New Delhi – 110 057
(Phone No.: 32506011, Fax No.26141205)

Appeal No. F. ELECT/Ombudsman/2006/111

Appeal against Order dated 16.05.2006 passed by CGRF – NDPL on CG.No. 0704/04/06/CVL (K.No.35500029092).

In the matter of:

Shri Shanker Lal Mittal - Appellant

Versus

M/s North Delhi Power Ltd. - Respondent

Present:-

Appellant Shri Shanker Lal Mittal

Respondent Shri Jagat Singh, Sr. Manager
Shri Padam Singh, Section Officer (Accounts) and
Shri Suraj Das Guru, Executive (Legal), on behalf of NDPL

Date of Hearing: 21.11.2006 / 05.12.06

Date of Order : 06.12.2006

ORDER NO. OMBUDSMAN/2006/111

The Appellant a resident of Flat No.10, Ramdurg Building, Jawahar Nagar, New Delhi -110007 received electricity bill dated 27.9.2005 containing debit adjustment of Rs.16,108.18 without mentioning reasons/details for this amount.

According to the Respondent, the defective meter at appellant's premises was replaced on 4.9.2000 which also remained stuck at reading 20 and this meter was replaced on 30.3.2003.

After replacement of meter on 30.03.2003, provisional bills continued to be sent till 2.11.2003. The debit adjustment amount of Rs.16,108.18 indicated in September 2005 bill is on account of assessment done for the period 4.9.2000 to 30.3.2003 (2 ½ years). Some of the provisional bills issued till 2.11.2003 were revised on actual consumption basis.

The Appellant has raised the objection that Licensee Company has not taken action in accordance with the Rules and Regulations and as per provisions of Section 56 (2) of Electricity Act, 2003 past arrears should not be claimed.

138

The appellant visited the discom office on 18/11/05, 2/12/05, 18/12/05, 19/12/05, 3/01/06, 23/1/06 and 28/1/06. After failing to seek redressal of his grievance he filed a complaint on 30/06/06 before CGRF.

The CGRF ordered modification of the assessment made by the discom limiting it to 11512 units as against 12262. LPSC was ordered not to be levied.

The appellant not satisfied with the order of CGRF filed appeal on 19/07/2006 before the Ombudsman.

Before the Ombudsman the appellant referred to DERC Regulation 2002 (Performance Standards – Metering and Billing).

- i) Regulation 18(iii) referring to provisional billing which shall not continue for more than 2 billing cycles at a stretch.
- ii) Regulation 19 regarding replacement of the defective meter within 30 days of testing.
- iii) Regulation 20, if the meter is not recording / stuck it has to be replaced within 30 days.

He has stated that as against Regulation 18(iii) providing for provisional bills of not more than 2 Billing Cycles, he has received "unlimited" provisional bills".

As against Regulation 19, replacement of the defective meter within 30 days of testing, his meter was replaced after 2 ½ years. When he brought to the notice of discom the defective meter and its replacement he was assured that there was shortage of meters and his meter would be replaced as soon as meters were received.

As against assessment by the discom for 2 ½ year he has referred to Regulation 19 according to which assessment is required to be made for 6 months.

After scrutiny of contents of appeal, CGRF orders, submission by both parties in response to the queries raised, the case was fixed for hearing on 21.11.2006.

On 21.11.06 appellant Shri Shankar Lal Mittal attended in person.

Shri Suraj Das Guru, Executive (Legal), Shri Padam Singh, Section Officer (Accounts) alongwith Shri Jagat Singh Sr. Manager attended the hearing on behalf of the Respondent.

- 1) The period of dispute from 4.9.2000 to 30.3.2003 has two parts i.e. from 4.9.2000 to 30.6.2002 DVB period and thereafter NDPL period.

182

2) In fact Respondent was required to take necessary action in respect of replacing the defective meter and making necessary assessment in accordance with the DVB order No. CO/11/P-21/00/26 dated 10.5.2000 which provides that:

- a) In all cases of defective meters including burnt/stop meters detected with effect from 1.5.2000, the period of assessment would be limited to a maximum of six months.
- b) It shall be mandatory on the part of concerned field officer(s) to conduct regular checking of the meters and all the dead/stop/burnt and inaccurate meters found must be replaced within a period of six months from the date these are found defective failing which the responsibility for the loss of revenue of the Board for a period beyond six months shall lie on the concerned field officers/officials".

Thus the above DVB order requires:

- i) all stop / dead / burnt meters to be replaced within 6 months.
- ii) the period of assessment is limited to six months.

The Appellant's Meter remained defective from 4.9.2000 and was replaced after 2 ½ years (30.3.2003) as against 6 months permitted by DVB

Regulations 20 (ii) of DERC Regulation 2002 (Performance Standards – Metering and Billing), which came into effect from 19.08.02 allows 30 days to the Licensee Company to replace the meter if it is found stuck / not recording. The assessment was done for the entire period instead of 6 months as provided for in Section 26(6) of the Electricity Act 1910 / above DVB order.

During the course of hearing Respondent was asked:

- a) Why DVB orders dated 10.5.2000 were not followed for replacing the defective meter within six months.
- b) Defective meter was replaced on 30.3.2003, why assessment was done in September 2005 belatedly for the entire period in violation of DVB orders for limiting the assessment for a maximum period of six months.
- c) Why even after replacement of meter on 30.3.2003, provisional bills continued to be sent till 2.11.2003.

The Respondent replied that for the lapse during DVB period i.e. till 30.6.2002 no comments can be offered. However, delay in assessment took place as large

186

number of meters were replaced under Mass Meter Replacement Programme and delay occurred due to voluminous work of large number of assessments to be done.

The Respondent further stated that after replacement of meter on 30.3.2003 provisional bills were sent till 2.11.2003 as meter change particulars were not fed in the system.

As per Regulation 42 if provisional billing continues for more than two billing cycles, penalty of Rs.500/- per such bill shall be payable by the Licensee. **In this case 4 provisional bills were sent to the appellant. Accordingly Rs.500 X 4= Rs.2000/- is required to be deposited by the discom with DERC.**

From the DVB order /Regulations of the DERC cited by the appellant it is clear that assessment is limited to 6 months in case of defective / stuck meter. Also reliance is placed on the Delhi High Court judgment in H.D. Shourie Vs. MCD AIR 1987 Delhi 219, wherein it is held "The maximum period for which a bill can be raised in respect of a defective meter under section 26 (6) is six months and no more. Therefore, even if a meter has been defective for say a period of five years, the revised charges can be for a period not exceeding six months. The reason for this is obvious. It is the duty and obligation of the licensee to maintain and check the meter. If there is a default committed in this behalf by the licensee and the defective meter is not replaced, then it is obvious that the consumer should not be unduly penalized as a bill not to exceed six months would possibly ensure better checking and maintenance by the Licensee".

In view of above, it is regretfully observed that there is a serious lapse on the part of Licensee Company for not taking necessary action as per DVB orders dated 10.5.2000 and DERC Regulations as mentioned above in replacing the defective meter within the period specified in above Orders/Regulations. By not limiting the assessment period to six months and by sending more than two provisional bills, there is considerable deficiency of service on the part of the Licensee Company.

In view of the above judgment of the Delhi High Court the Licensee Company was obliged to revise the assessment limiting it to a maximum period of six months prior to 30.3.2003 when meter was replaced, based on average consumption of the new meter for the corresponding six months. However the Licensee Company failed to make the assessment for 6 months as mentioned above.

Instead, it made the assessment for the entire period belatedly after a period of two and a half years of replacement of the meter. Section 56(2) of the Electricity Act, 2003 is therefore applicable, as no arrears were mentioned in the past two year's bills. In this regard Shri Suraj Das Guru submitted a decision of the Appellate Tribunal for Electricity dated 14/11/2006 of Ajmer Vidyut Vitran Nigam Limited, Chittorgarh, Rajasthan Vs. M/s Sisodia Marble & Granites Pvt. Ltd. He also relied on the case of Shri V.K. Handa / Shri B.S. Dhingra Vs NDPL which is pending before the Delhi High Court.

185

It may be noted here that Shri Guru's reliance on the above case is totally misplaced as in this case the Licensee Company is before the High Court on four issues. In its interim order the Hon'ble High Court has stayed the operation of the Ombudsman order in that case only, but also stayed the recovery by NDPL against the respondents. The case is yet to be heard by the Hon'ble Judges on merit and no ruling of law on section 56(2) has been pronounced by the Hon'ble Judges. Reliance on the above by the Discom is therefore totally baseless.

In view of section 56(2) of the Electricity Act, 2003 as no arrears have been mentioned, in the bills of the past 2 years, no recovery can be made beyond 2 years i.e. for the period prior to September 2003.

The discom was directed to work out the amount due from the appellant in view of section 56(2) as mentioned above. The discom has submitted the computation on 05.12.06 which is Rs.82.14p. The appellant is directed to pay Rs.82.14p to the discom.

The CGRF order is set aside.

31/2/11 2821
(Asha Mehra)
Ombudsman